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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,354	03/09/2001	Steven A. Sunshine	18564I008110	7440
22428	7590	12/20/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				ART UNIT
				PAPER NUMBER

DATE MAILED: 12/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/802,354	Sunshine et al.
	<b>Examiner</b>	<b>Art Unit</b>
	O'Connor	3627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on October 18, 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37(c) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1.  The brief was filed on or after September 13, 2004 and does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a correct statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise and/or correct statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal or include separate subheadings identifying any claim or groups of claims argued separately (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items):

§ 2 needs to be deleted; § 12 needs to be moved up to precede § 10; extra § 9 for "conclusion" is okay; all sections need to be renumbered in accordance with deletions/moves/changes.

Correct "Status of Claims" is simply: Claims 1-8 and 56-58 are pending, claims 9-55 having been cancelled; Claims 1-8 and 56 are rejected and are the subject of this appeal; Claims 57 and 58 remain withdrawn from further consideration for being drawn to a non-elected invention.

  
 12/14/06  
 Gerald J. O'Connor  
 Primary Examiner  
 Art Unit: 3627